

### **STATUS OF CLAIMS**

Claims 3, 5-10, 14-25, 27, 29-32 and 35-44 are pending.

Claims 3, 5-10, 14-25, 27, 29-32 and 35-44 stand rejected.

No claims have been amended.

### **REMARKS**

Reconsideration of the subject application is requested.

#### ***Rejections Pursuant to 35 U.S.C. 103(a)***

Claims 3, 5-10 and 14-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi (U.S. Patent 5,950,169), in view of (2) Cutting Out the Middlemen (May 31, 1999 non-patent literature (hereinafter "Middlemen"), further in view of (3) "Customers of Foremost Insurance Group Companies Can Now File Claims on the Company's Web Site" (hereinafter "Foremost"). Applicant notes that the Office Action states, on pages 11-12, that none of the current 35 U.S.C. 103(a) rejections rely on the Middlemen reference. Furthermore, the Office Action does not identify any teachings of Middlemen relied on in support of the rejection. Accordingly, Applicant responds to the Section 103 rejection of claims 3, 5-10 and 14-15 as if the rejection did not purport to rely on Middlemen.

The rejection of claim 3 is respectfully traversed for at least the following reasons.

In order to render a claim unpatentable, all of the recited limitations thereof must be taught or suggested in the prior art. *See*, MPEP 2143.03; *see also*, *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Applicant submits the cited prior art fails to teach or suggest each of the limitations of any of the pending claims.

The cited art fails to teach at least the limitations:

a claim rehabilitation component aggregating services related to loss recovery and automatically providing the aggregated services to the claimants to rehabilitate the sustained losses in accordance with said analyzing;

wherein, the site generating component, claim data analyzing component and claim rehabilitation component enable claimants to self-service the claims for the sustained losses using the aggregated services.

The Office Action alleges that Foremost teaches, in Paragraphs 3 and 4 of the Full Text section, the foregoing limitations. In fact, Foremost teaches that the customer is contacted by an individual the next day after filing a claim online. Foremost states, in Paragraph 4 of the full text section:

“Filing a claim online is no substitute for the person-to-person services we offer,” says Troutman. “When a loss is filed online, we then follow our standard procedure of contacting the customer the next business day and working one-on-one to settle the loss.”

There is thus no disclosure in Foremost of the recited “claim rehabilitation component aggregating services relating to loss recovery,” as Foremost does not refer to a component of a computer system that aggregates services. Rather, an individual contacts the customer, as clearly taught by the “person-to-person services” and “contacting the customer the next business day and working one-on-one to settle the loss.”

There is further no teaching in Foremost of the recited “automatically providing the aggregated services to the claimants to rehabilitate the sustained losses in accordance with said analyzing.” In Foremost, no services are automatically provided to the customer, let alone services provided, as recited in claim 3, in accordance with analyzing performed by a claim data analyzing component of a computer system. Rather, as noted above, Foremost teaches contact by an individual after the claim information is received.

Furthermore, there is no teaching in Foremost of enabling “claimants to self-service the claims for the sustained losses using the aggregated services” as recited in claim 3. Far from enabling claimants to self-service claims, Foremost teaches having an individual contact the insured the very next business day. Furthermore, Foremost makes no reference to aggregated services whatever.

Notwithstanding that the above-noted deficiency of the cited art is sufficient to require reconsideration and removal of all outstanding rejections under Section 103(a), Applicant further notes that Claim 3 also recites, *inter alia*, “a claim data analyzing component analyzing the inputted insurance claim information and identifying the claimants, verifying insurance coverage and summarizing the claims based on the analyzing.” The Office Action asserts that this limitation may be found in Borghesi at col. 9, lines 43-56 and col. 17, lines 61-63. However, Borghesi, at col. 9, lines 43-56, merely teaches a party information frame, illustrated at Fig. 6, into which various categories of information are enterable by the user. There is no disclosure of

a component that analyzes the inputted insurance claim information, verifies insurance coverage or summarizes the claims. Borghesi at col. 17, lines 61-63, states that a body shop verifies coverage at block 455 of Fig. 19. There is no indication that this step is performed by a computer system. Indeed, it is clear that the steps of Fig. 19 are not all performed by a computer system; for example, block 450 recites that the insured calls the insurance company and tows the car to the lot or impound yard (see Fig. 19). There is accordingly no teaching of system verification of insurance.

Notwithstanding that the foregoing represents sufficient grounds that necessarily require removal of all the Office action asserted rejections, Applicant further submits the following grounds justifying reconsideration and removal of the Office action asserted rejections.

Independent Claim 3 recites, *inter alia*, "wherein, the site generating component, claim data analyzing component and claim rehabilitation component enable claimants to self-service the claims for the sustained losses using the aggregated services." Such a system is disclosed throughout the subject application. The disclosed process is an "open-system" which permits consumers to process their own claims and utilize the ancillary services and commodities offered. The invention permits the claim process to proceed without an agent, broker or an insurance company.

Borghesi presents a comprehensive system and method for processing insurance claims "for use by insurance companies as well as appraisers, repair shops, salvage yards and other support industries." Col. 2, ll. 33-41. Accordingly, Borghesi presents exactly that type of prior art system having the shortcomings and deficiencies that the present invention addresses by enabling insurance claimants to self-service insurance claims.

In an effort to remedy this admitted shortcoming, the Office Action seeks to modify the Borghesi system to enable clients to self-service insurance claims. However, such a modification of Borghesi would eliminate the problem that Borghesi itself seeks to address, namely, that an insurance claim adjuster must spend time keeping track of, and running, separate programs that may overlap and lead to redundant data entry tasks for insurance claim work flow (see, col. 2, ll. 3-9). Accordingly, the need for the Borghesi system is entirely eradicated.

In other words, one possessing an ordinary skill in the pertinent art at the time of the invention would not have turned to and sought to modify the Borghesi system, where the

problem solved by the Borghesi system (agents processing claims) is not present in the first place. Accordingly, proper grounds to modify the teachings of Borghesi to change its principle of operation are lacking.

For at least the foregoing reasons, the rejection of claim 3 should be withdrawn.

Claims 5-10 and 14 depend from allowable base claim 3; the rejections of these claims should be withdrawn at least in view of their dependence from an allowable base claim.

Claim 15 depends from allowable base claim 3, and the rejection of claim 15 should be withdrawn at least in view of its dependence from an allowable base claim. The rejection of claim 15 should be withdrawn for at least the further grounds that the art of record fails to teach the recited limitation: "wherein the site is operative as an online consumer-to-business exchange that permits vendors of goods and services to advertise and offer products that individuals and businesses require to rehabilitate a loss." The Office Action points to Borghesi, col. 5, lines 5-50 as teaching this limitation. However, the cited portion of Borghesi begins by describing steps associated with an automobile claim processing workflow (see col. 4, line 64 to col. 5, line 5). The workflow includes a vehicle inspection (col. 5, lines 6-15) and determining salvage disposition, at lines 16-25. The text then states that all of the information relating to a given claim may be contained in an electronic datafile, at lines 28-30. The text then notes that a workfile may contain total loss calculations, settlement information, an event log, notes, reports, form letters and rate tables, at lines 36-50. There is no reference to a consumer-to-business exchange that permits vendors of goods and services to advertise and offer products that individuals and businesses require to rehabilitate a loss. The workflow merely describes, at a high level, the steps taken by an adjuster, and does not refer at all to providing products to rehabilitate a loss. The references to the datafile merely describe types of data and documents, and again have nothing to do with the recited online consumer-to-business exchange.

For at least these reasons, in addition to the reasons set forth above with reference to claim 3, the rejection of claim 15 should be withdrawn.

While there is no explicit statement in the Office Action of the grounds for rejection of Claims 25, 27, 29-32, 35 and 36, it appears that these claims stand rejected on the same grounds as claims 3, 5-10 and 14-15.

The limitations of claim 25 are similar to the limitations of claim 3, and the rejection of claim 25 is respectfully traversed at least for the same reasons as the rejection of claim 3.

Claims 27, 29-32 depend from allowable base claim 25; the rejection of these claims should be withdrawn at least by virtue of their dependence from an allowable base claim.

Claim 35 depends from allowable base claim 25; the rejection of claim 35 should be withdrawn at least by virtue of its dependence from an allowable base claim. Claim 35 is similar to claim 15, and the rejection of claim 35 should further be withdrawn for the same reasons that the rejection of claim 15 should be withdrawn.

Claim 36 depends from allowable base claim 25, and the rejection of claim 36 should be withdrawn at least by virtue of the dependence of claim 36 from an allowable base claim. In addition, contrary to the Office Action, there is no teaching in the cited portion of Borghesi of "suggesting multiple vendors and services for performing tasks and requirements associated with rehabilitating a claim." As discussed above in connection with claim 15, the cited portion of Borghesi merely relates to a claim workflow and proposed information for a datafile. For at least the foregoing reasons, the rejection of claim 36 should be withdrawn.

Claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, and further in view of (3) Progressive.com (published on March 1, 2000). The rejection is respectfully traversed.

The Office Action alleges that page 1 of Progressive.com teaches multiple vendors and services for performing tasks and requirements associated with rehabilitating a claim. There is simply nothing in the brief text on this page that relates to tasks and requirements associated with rehabilitating a claim, or with multiple vendors and services for performing those tasks. The references to claims amount to the wording "your personalized insurance service center for...individualized claim information and vehicle replacement quotes" and "Immediate Response Claims Service." There is simply nothing in this reference that teaches the limitations alleged by the Office Action to be taught.

For at least this reason, in addition to the dependence of claim 16 from allowable base claim 3, the rejection of claim 16 should be withdrawn.

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) King (United States Patent No. 5,704,045). The rejection is respectfully traversed on the grounds that King specifically states that its system is not exchange-based (col. 9, lines 9-12), in contrast to the recited business-to-business exchange of claim 17. Moreover, the system of King is not integrated with a system for insureds to self-service claims, and does not appear to disclose post-accident purchase and sale of risk obligations and subrogation rights.

For at least these reasons, in addition to the dependence of claim 17 from allowable base claim 3, the rejection of claim 17 should be withdrawn.

Claims 18 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) King, further in view of (4) Ryan (United States Patent No. 5,655,085). The rejection is respectfully traversed on the grounds that Ryan relates to evaluating life insurance policies prior to purchase (Abstract, lines 1-3), and has nothing to do either with scoring claims of any type, or with property and casualty insurance. As to claim 19, Ryan has no disclosure of accident description, loss state, responsible party or subrogation value.

For at least these reasons, in addition to the dependence of claims 18 and 19 from allowable base claims 3 and 17, the rejection of claims 18 and 19 should be withdrawn.

Claims 20 and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) King, further in view of (4) Ryan, further in view of (5) Ertel (United States Patent No. 5,307,262).

The rejection is respectfully traversed on the grounds that Ertel has no disclosure whatever related to bundling claims for subrogation value, and further utterly lacks a sale price determining component. Ertel has to do with identifying and correcting problems in data quality (col. 5, lines 21-25). Ertel does not relate to classifying claims to be bundled in groups for subrogation. The Office Action points to column 29, lines 11-48, which relates to

archiving of records and organization of archived data. This portion of Ertel has nothing to do with subrogation.

For at least these reasons, in addition to the ultimate dependence of claims 20 and 21 from allowable base claims 3 and 17-19, the rejection of claims 20 and 21 should be withdrawn.

Claims 22-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) Burks (United States Patent No. 6,453,297).

The rejection of claim 22 should be withdrawn at least by virtue of the dependence of claim 22 from allowable base claim 3.

The rejection of claim 23 is respectfully traversed, on the grounds that there is no teaching in the cited art of concealing the identities of claimants who have input claims for sustained losses when searching for similar claims. Burks relates to medical claims, where patient confidentiality is of concern. However, the system of claim 3 relates to claims for sustained losses, not to medical insurance claims. There is no teaching, suggestion or motivation, and no line of reasoning furnished by the Office Action, for providing for concealing identities of claimants when searching in the database.

For at least the foregoing reason, in addition to the dependence of claim 23 from allowable base claim 3, the rejection of claim 23 should be withdrawn.

Claim 24 stands rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) Burks, and even further in view of (4) Ertel.

The rejection is respectfully traversed. Ertel, like Burks, also relates to medical claim information, and not to claims for sustained losses. There is no teaching, suggestion or motivation in the art, and no line of reasoning furnished by the Office Action, for providing "pooling common issues into anonymous class groups" in connection with claims for sustained losses.

For at least the foregoing reason, in addition to the dependence of claim 24 from allowable base claims 3 and 23, the rejection of claim 24 should be withdrawn.

Claim 37 stands rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) King. The limitations of claim 37 are similar to the limitations of claim 17. For at least the reasons set forth above in connection with claim 17, in addition to the dependence of claim 37 from allowable base claim 25, the rejection of claim 37 should be withdrawn.

Claims 38 and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) King, further in view of (4) Ryan. The limitations of claims 38 and 39 are similar to the limitations of claims 18 and 19. For at least the reasons set forth above in connection with claims 18 and 19, in addition to the dependence of claims 38 and 39 from allowable base claims 25 and 37, the rejections of claims 38 and 39 should be withdrawn.

Claims 40-44 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi in view of (2) Foremost, further in view of (3) King, still further in view of (4) Ryan, and yet further in view of (5) Ertel.

These rejections are respectfully traversed. Claim 40 is similar to claim 20; the rejection of claim 40 should be withdrawn for at least the reasons set forth above in connection with claim 20, in addition to the dependence of claim 40 from allowable base claims 25 and 37-39.

Claim 41 is similar to claim 21; the rejection of claim 41 should be withdrawn for at least the reasons set forth above in connection with claim 21, in addition to the dependence of claim 41 from allowable base claims 25 and 37-40.

Claim 42 is similar to claim 22; the rejection of claim 42 should be withdrawn for at least the reasons set forth above in connection with claim 22, in addition to the dependence of claim 42 from allowable base claims 25 and 37-41.

Claim 43 is similar to claim 23; the rejection of claim 43 should be withdrawn for at least the reasons set forth above in connection with claim 23, in addition to the dependence of claim 43 from allowable base claims 25 and 37-42.



Claim 44 is similar to claim 24; the rejection of claim 44 should be withdrawn for at least the reasons set forth above in connection with claim 24, in addition to the dependence of claim 44 from allowable base claims 25 and 37-43.

**CONCLUSION -INTERVIEW REQUESTED**

Applicant believes he has addressed all outstanding grounds raised in the outstanding Office action, and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

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Respectfully submitted,



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